IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 38 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KAMALKUMAR HASMUKHBHAI TRIPATHI

Versus

STATE OF GUJARAT

Appearance:

1. Special Criminal Application No. 38 of 2003

MR KG PANDIT for Petitioner No. 1

MR PITAMBER ABICHANDANI A.P.P. for Respondent No. 1

MR TS NANAVATI for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 28/11/2003

ORAL JUDGEMENT

Rule. Mr.Pitamber Abichandani learned A.P.P. waives service of rule on behalf of respondent no.1 -

State.

2. This petition has been filed for the following reliefs namely :-

(B) Your Lordships be pleased to set aside and quash the complaint and the process issued therein by learned Metropolitan Magistrate, Court no.20 at Ahmedabad in Criminal Case no.56 of 2000, Annexure-A, which is subjudiced before him, looking to the facts and circumstances of this case and in the interest of justice, equity and fair play.

(C) Your Lordships further pleased to call for records and proceedings of Criminal Case no. 56 of 2000 filed by respondent no.2 subjudiced before the learned Metropolitan Magistrate, Court no.20 at Ahmedabad for the purpose of scrutiny of this Honourable Court.

(D) OR in the alternative Your Lordships be pleased to direct the learned Metropolitan Magistrate, Court no.20 at Ahmedabad to take decision of the petitioner's approposed application for discharging for the charges to be made under Section 239 of Criminal Procedure Code for the alleged offences levelled by respondent no.2 in her pending Criminal Case no.56 of 2000 within reasonable time. which may be deemed just and proper in the interest of justice, equity and fair play.

2.1. Mr. K.G. Pandit learned advocate appearing for the petitioner after taking me through the record of this petition, submits that this is a fit case for quashing the proceedings or if the Court is not inclined to quash the proceedings, in the alternative direct the learned Trial Court to hear the matter expeditiously as it involves a dispute between husband and wife.

2.2. Considering the material placed on record of this petition, prima facie it appears that it does not call for any interference of this Court in the matter of quashing the proceedings. However, considering the fact that the matter is of year 2000, and there is a dispute between the husband and wife and the fact that according to Mr.T.S. Nanavati chargesheet has been filed and the

matter is ready for hearing, the Trial Court is directed to hear and dispose of Criminal case as expeditiously as possible and not later than 30th June, 2004. It is also clarified that whatever the interim applications which have been made by the parties, will be heard and decided at the earliest by the learned Judge.

With this direction, the petition is allowed. Rule is made absolute accordingly.

[AKSHAY H. MEHTA, J.]

/phalguni/